

REMARKS

Claims 1-39 are pending.

Drawings

The instant Office Action states that new Figures 10A, 10B, 10C and 10D, including legends, are required to avoid abandonment of the application. Replacement Figures 10A, 10B, 10C and 10D, with legends, are submitted herein.

Double Patenting

The instant Office Action states that Claims 1-39 are provisionally rejected under the judicially created (nonstatutory) doctrine of obviousness-type double patenting as being unpatentable over copending Application No. 09/849,794. A terminal disclaimer in compliance with 37 CFR § 1.321 is being submitted concurrent with the instant response, thereby obviating the double patenting rejection.

103(a) Rejections

Claims 1-6, 10-19, 23-32 and 36-39

The instant Office Action states that Claims 1-6, 10-19, 23-32 and 36-39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakagawa et al. ("Nakagawa;" U.S. Patent No. 6,810,131) in view of Perlman et al. ("Perlman;" U.S. Patent No. 6,055,316). The Applicants have reviewed the cited references and respectfully submit that the present invention as recited in Claims 1-6, 10-19, 23-32 and 36-39 is not anticipated nor rendered obvious by Nakagawa and Perlman, alone or in combination.

Applicants respectfully submit that there must be some suggestion or motivation to combine Nakagawa and Perlman. Applicants respectfully

contend that there is no such suggestion or motivation in either Nakagawa and Perlman. Perlman makes no mention of encoding or compressing data. Nakagawa appears to only describe encryption in terms of scrambling. Applicants respectfully disagree with the statement in the instant Office Action that element 1108 of Nakagawa (Figure 15) is an encrypter. Element 1108 is a sign inverter used for compressing data.

Applicants respectfully disagree with the statements in the instant Office Action that it would have been obvious to one of ordinary skill in the art to combine the teachings of Nakagawa and Perlman. Applicants respectfully submit that, at the time of the claimed invention, it was not obvious to combine the teachings of Nakagawa and Perlman. Applicants respectfully submit that the existing level of ordinary skill in the art at the time the claimed invention was made is summarized in the background art section of the instant application. As described therein, the prior art was problematic for many reasons, which can be generally summarized as a lack of capability to scale (e.g., transcode) data in a secure manner. It is reasonable to infer that these problems would not have persisted had the claimed invention been obvious. Instead, those of ordinary skill in the art continued to encounter the disadvantages of the prior art without obvious solution. Applicants respectfully assert that the fact that progressive encryption of scalably encoded data, as recited in the claims, was not implemented by those skilled in the art prior to the invention provides evidence of the nonobviousness of the present claimed invention.

Applicants respectfully submit that, even in combination, Nakagawa and Perlman at best only describe a method or system that is described by, and shares the problems of, the prior art described in the background art section of the instant application.

In summary, Applicants respectfully submit that Nakagawa and Perlman (alone or in combination) do not show or suggest progressive encryption of scalably encoded data as recited in independent Claims 1, 14 and 27. Therefore, Applicants respectfully submit that Claims 1, 14 and 27 are considered patentable over Nakagawa and Perlman (alone or in combination). Because Claims 2-6, 10-13, 15-19, 23-26, 28-32 and 36-39 depend from Claims 1, 14 or 27 and contain additional limitations, Claims 2-6, 10-13, 15-19, 23-26, 28-32 and 36-39 are also considered patentable over Nakagawa and Perlman (alone or in combination). Therefore, Applicants respectfully submit that the basis for rejecting Claims 1-6, 10-19, 23-32 and 36-39 under 35 U.S.C. § 103(a) is traversed.

Claims 7-9, 20-22 and 33-35

The instant Office Action states that Claims 7-9, 20-22 and 33-35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakagawa in view of Perlman and further in view of Van der Auwera et al. ("Van der Auwera;" U.S. Patent No. 6,532,265). The Applicants have reviewed the cited references and respectfully submit that the present invention as recited in Claims 7-9, 20-22 and 33-35 is not anticipated nor rendered obvious by Nakagawa, Perlman and Van der Auwera, alone or in combination.

As presented above, Applicants respectfully submit that Nakagawa and Perlman, alone or in combination, do not show or suggest the embodiments of the present claimed invention recited in independent Claims 1, 14 and 27. Claims 7-9 are dependent on Claim 1 and recite additional limitations. Claims 20-22 are dependent on Claim 14 and recite

additional limitations. Claims 33-35 are dependent on Claim 27 and recite additional limitations.

Applicants respectfully submit that Van der Auwera does not overcome the shortcomings of Nakagawa and Perlman. Applicants respectfully submit that Van der Auwera, alone or in combination with Nakagawa and Perlman, does not show or suggest progressive encryption or progressively encrypting data as recited in the independent claims.

Therefore, Applicant respectfully submits that Nakagawa, Perlman and Van der Auwera, alone or in combination, do not show nor suggest the present invention as recited in independent Claims 1, 14 and 27, and that Claims 1, 14 and 27 are considered patentable over Nakagawa, Perlman and Van der Auwera (alone or in combination). Because Claims 7-9, 20-22 and 33-35 depend from Claim 1, 14 or 27 and contain additional limitations, Claims 7-9, 20-22 and 33-35 are also considered patentable over Nakagawa, Perlman and Van der Auwera (alone or in combination). Therefore, Applicants respectfully submit that the basis for rejecting Claims 7-9, 20-22 and 33-35 under 35 U.S.C. § 103(a) is traversed.

Conclusions

In light of the above remarks, Applicants respectfully request reconsideration of the rejected claims.

Based on the arguments presented above, Applicants respectfully assert that Claims 1-39 overcome the rejections of record and, therefore, Applicants respectfully solicit allowance of these claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

WAGNER, MURABITO & HAO LLP

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John P. Wagner, Jr.
Reg. No. 35,398

Two North Market Street
Third Floor
San Jose, California 95113
(408) 938-9060

Enclosure: Replacement Drawing Sheets: Figures 10A, 10B, 10C and 10D

AMENDMENTS TO THE DRAWINGS

Figures 10A, 10B, 10C and 10D are amended. Specifically, legends are added to each of the Figures 10A, 10B, 10C and 10D. Replacement sheets for Figures 10A, 10B, 10C and 10D are enclosed.